

FPPC Advice Summaries

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Informal assistance may be provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an "A," while informal assistance is identified by the letter "I."

Campaign

David Bauer
Maddox for Assembly
Dated: August 22, 2003
File Number A-03-037

An Assembly member had funds in his campaign bank account on January 1, 2001, redesignated his committee for his next successful Assembly campaign and later transferred funds from the Assembly committee to a state Senate campaign committee. Because the balance of funds in the bank account for the Assembly committee never fell below \$45,000 between January 1, 2001, and the date of the transfer of funds to the state

Senate committee, it could be established that these funds remained from the funds in the committee bank account on January 1, 2001. Thus, he was permitted to amend the Form 460 filed for his state Senate campaign to reflect that \$45,000 of the \$110,000 transferred from his Assembly committee was unattributed pursuant to regulation 18530.2.

Mike Morrell
Mike Morrell for Senate
Dated: August 6, 2003
File Number A-03-089

A former candidate for a U.S. congressional seat was advised that he could transfer funds remaining in his federal candidate committee to his controlled-committee for a current state Senate race. The transfer, however, is subject to attribution under section 85306 and contribution limits under section 85301(a). What this means is that funds must be attributed to the individual donors to the federal congressional committee and each such contribution may only be provided to the candidate's state Senate committee if, when the federal and state contributions are combined, they would not cause a donor to the state Senate committee to exceed the applicable contribution limit. In this instance, the applicable contribution limit is \$3,200 per person, per election.

Gregory D. Totten, D.A.
Ventura County
Dated: August 1, 2003
File Number A-03-130

Officials must disclose as contributions any payments raised for officials' litigation costs in connection with activities related to their status as officeholders. The two officials should notify contributors of the specific amount allocated to each of their committees.

Wayne Ordos
Kern County
Dated: August 7, 2003
File Number A-03-144

The use of surplus funds belonging to a deceased candidate and the rule applicable to disbursement of the funds to charities is discussed in this letter.

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Jane K. Willet
Tom Wilson For Assembly
Dated: August 27, 2003
File Number A-03-165

Only subvendors who receive individual payments of \$500 or more made on behalf of a committee are required to be itemized on the committee's campaign statement. In addition, this letter concludes that the use of a campaign committee credit card is reported the same as if the committee's checking account were used; all vendors who receive a single payment of \$100 or more must be itemized on the committee's campaign statement. If more than one payment is made for the same good or service, the payments must be cumulated to determine if the applicable threshold has been reached.

Gay Brewer
City of Inglewood
Dated: August 25, 2003
File Number I-03-174

A candidate was given general advice about reporting nonmonetary contributions when an individual or entity pays a vendor directly for goods or services provided to a candidate. The letter also discusses amendments to campaign statements.

Caren Daniels-Meade
Political Reform Division
Dated: August 11, 2003
File Number A-03-178

The Secretary of State is advised that an amended Candidate Intention Statement (Form 501) filed by a replacement candidate for Governor in the October 7, 2003, recall election, which changes the candidate's designation regarding the voluntary expenditure limits, has no force and effect. The Act does not provide any method for a state candidate to change his or her expenditure limit designation. The letter recommends that the amended Form 501 be returned to the candidate.

Marilynne Mellander
El Sobrante Municipal Advisory Council
Dated: August 20, 2003
File Number A-03-181

A board member who has been appointed to an

elected position is advised that, because the board member position is unsalaried, she need not file a semi-annual campaign statement for any 6-month period in which she has neither received contributions nor made expenditures.

Virginia J. Bloom
Office of the County Clerk/Recorder
Dated: July 17, 2003
File Number I-03-135

A county filing officer is advised that the county is authorized and required to review all original campaign statements filed with the county, including those filed by a state candidate who is also a county officeholder. There is no time limit on requesting amendments.

Margie L. Rice
City of Westminster
Dated: July 16, 2003
File Number A-03-140

Cumulative totals reported on a campaign statement, Form 460, are calculated on a calendar year basis. Thus, cumulative totals from the previous report must be added to figures from the reporting period for the report being filed to determine the cumulative totals, unless the report being filed covers the period beginning January 1. In that case, cumulative totals from the previous report should not be added to the current reporting period figures, except for loans received, loans made and accrued expenses.

James V. Lacy
City of Dana Point
Dated: June 6, 2003
File Number I-03-076

A local officeholder, defined as a "candidate" under § 82007, does not "control" a statewide candidate committee merely by reason of his status as a local officeholder, while he serves as treasurer and legal counsel to the statewide committee.

Kristine Sremaniak
Mike Morrell for Assembly
Dated: June 13, 2003
File Number A-03-092

Several questions concerning in-kind contributions to a candidate's campaign from the candi-

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date's wholly owned corporation under Proposition 34 limits are discussed.

Ginger Osborne
Village Laguna of Laguna Beach
Dated: June 11, 2003
File Number A-03-108

A multi-purpose organization, which is also a general purpose recipient committee, is advised that it has only to report that portion of its receipts which is actually spent in connection with political activities in California. A general purpose recipient committee is not required to have a separate bank account; it may use the bank account of its sponsoring organization. A sponsored committee must include the full name of its sponsor in the name of the committee.

Conflict of Interest

Terence R. Boga
City of Seal Beach
Dated: August 8, 2003
File Number A-03-067

A city engineer and a city manager are each presumed to have a conflict of interest in decisions pertaining to a proposed development located within 500 feet of each official's real property. The officials are prohibited from participating in these decisions unless this presumption is rebutted or if an exception to the conflict-of-interest rules applies. The "significant segment" prong of the "public generally" analysis is specifically addressed. (Further discussion of the "public generally" exception as it applies to the facts surrounding these decisions is included in a follow-up letter, *Boga Advice Letter*, No. I-03-067(a).)

John M. Rea
Department of Industrial Relations
Dated: August 7, 2003
File Number A-03-107

A state agency is advised that third party contractors hired to initiate and enforce labor compliance agreements according to statutory requirements are consultants under the Act since they make governmental decisions.

Bruce C. Cline
City of Folsom
Dated: August 22, 2003
File Number A-03-110

A historic district commissioner has a conflict of interest in a railroad block decision unless the "public generally" exception applies.

Sandra Wallace
Soquel School District
Dated: August 4, 2003
File Number I-03-111

A public official is not required to obtain a professional appraisal, it is up to the official to decide whether or not to seek such an appraisal. The Commission cannot evaluate the factual accuracy of an appraisal, the official must make this determination.

Louis F. Brichetto
Oakdale Irrigation District
Dated: August 8, 2003
File Number A-03-153

A director of an irrigation district, who pledges that his properties will not be annexed to the district, is presumed not to have a conflict of interest in a decision to lower the annexation fee.

Roy A. Hanley
Municipal Advocates Group, LLP
Dated: August 4, 2003
File Number I-03-154

Because the council member owns a lot which is zoned in the zoning category subject to a city council decision, the affected council member may not participate in the decision to change that zoning code.

Mark W. Steres
City of Monterey Park
Dated: August 1, 2003
File Number A-03-155

Where a public official has a source of income which abuts a development project before the governmental body, and which requires easements across its property in order to complete the development, a conflict of interest might exist because both decisions may be too interrelated.

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David E. Wulfsberg
Sherwood Automotive Group

Dated: August 29, 2003

File Number A-03-156

Under certain circumstances, the Commission will pierce through a nonprofit and treat a donation to the nonprofit as a payment to the public official who is employed by or serves on the nonprofit board. Provided the public official does not solely control the organization and the donation will not affect the income the public official receives from the charity, the donation will not be considered a gift to the official.

T. Brent Hawkins
City of Brentwood
Dated: August 20, 2003
File Number A-03-160

Advice was sought on behalf of three public officials as to whether they have conflicts of interest disqualifying them from voting on the location and development of a new parking structure in the city's downtown redevelopment area. The advice concluded that insofar as the request sought advice on "decisions relating to the construction of the parking garage," the request was too vague to offer a response. The advice, therefore, was limited to a decision concerning location.

One official was advised that her salary from a local school district fell under the local government agency exception found in the Act's definition of "income" so that she does not have an economic interest that will be affected by these decisions. Another official was advised that although he is a named beneficiary under a trust, which owns property within 500 feet of the proposed site, since the trust was revocable and he has not received any distributions from the trust, the assets and income of the trust are not attributable to him. For these reasons, the advice concluded that he does not have an economic interest to be affected by these decisions. The third official was advised that since he was a 50% owner of a commercial property located within 500 feet of one of the two alternate sites contemplated for the parking garage,

he has a conflict of interest disqualifying him from voting on the site selection.

Daniel J. McHugh
City of Redlands
Dated: August 12, 2003
File Number A-03-163

Redevelopment agency directors have a conflict of interest in a decision to issue new tax increment bonds for the agency, only if the decision will have a material and foreseeable financial effect on their economic interests, including sources of income and businesses that operate in the redevelopment area.

Doug Tessitor
City of Glendora
Dated: August 20, 2003
File Number A-03-167

A council member is advised that neither the business owned solely by his brothers-in-law nor contributions given to him by his brothers-in-law are economic interests of the council member's. In the absence of economic interests, the council member is able to participate in decisions regarding the business owned by his brothers-in-law.

Pete Parkinson, AICP
County of Sonoma
Dated: August 7, 2003
File Number A-03-170

A public official is advised that he does not have a conflict of interest prohibiting his involvement in decisions concerning a groundwater resource study, even though his principal residence is located within the study area. According to the facts provided by the official, governmental decisions resulting from the study will not have any financial effects at all upon his principal residence.

William H. Wainwright
Martinez City Council
Dated: August 27, 2003
File Number A-03-179

A council member whose residence is located within 500 feet of real property which is the subject of a governmental decision may vote on that decision if he reasonably relies on an appraisal

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which indicates that the decision will have no financial effect on the council member's real property.

Guy D. Petzold
City of Stockton
Dated: August 20, 2003
File Number A-03-184

A campaign contribution is not considered either a gift or income for purposes of a conflict of interest under section 87100 of the Act. Moreover, the disqualification provisions of section 84308 of the Act do not apply to local government agency officials, such as city council members, who are directly elected by the voters.

Derek Johnson
Isla Vista Recreation & Park District
Dated: July 3, 2003
File Number A-03-062

A director for a recreation and park district is employed by a union as a part-time organizer and is also employed by a nonprofit organization. When his employer, the union, negotiates with the district on a labor contract, the union meets the test for direct involvement in the governmental decision. The director will be required to recuse himself from the decision, because any reasonably foreseeable financial effect at all, even one penny, on the union is deemed material. The nonprofit organization may be an independent basis for disqualification from this decision if the decision will have a reasonably foreseeable material financial effect on the nonprofit. When the district considers an ordinance sponsored by the director, both of his employers, as indirectly involved entities, may disqualify the director from participating in the decision if the decision will have a reasonably foreseeable material financial effect on either entity. In addition, a "nexus" exists between the director's duties for the union and his public duties so that any reasonably foreseeable financial effect on the union would disqualify the director from participation in this governmental decision as well.

Michael F. Dean
City of Dixon
Dated: July 21, 2003
File Number I-03-082

A council member may not participate in a decision regarding development in a thoroughbred horseracing facility if it is reasonably foreseeable that her economic interests will be materially affected unless the "public generally" exception applies.

Sue Horne
County of Nevada
Dated: July 24, 2003
File Number A-03-095

A member of the board of supervisors may participate in a decision to alter requirements of the second unit pilot program since it is not reasonably foreseeable that the decision will have a material financial effect on the official's economic interests.

Danny Weil, PhD, JD
The Critical Thinking Institute
Dated: July 17, 2003
File Number I-03-098

The mayor pro tem of a city who has a financial interest in his coffee shop is advised that he cannot participate in decisions if it is reasonably foreseeable that his coffee shop will be materially financially affected as a result of those decisions. If the mayor pro tem sells the coffee shop he will have an economic interest in the purchaser for 12 months after the purchase. However, if he gifts the interest in the coffee shop to his adult child, he would have an economic interest in the coffee shop as a source of income for 12 months.

T. Brent Hawkins
City of Hawthorne
Dated: July 1, 2003
File Number A-03-112

Multiple public officials were advised as to whether their economic interest in real property presents a conflict of interest which prohibits their involvement in decisions concerning the addition of property to an existing redevelopment area. The appropriate distance for measuring

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whether the officials' real property interests are within 500 feet of the project area and therefore directly involved in these decisions is the distance between either the current or proposed boundaries of the redevelopment area and their respective properties. The general form of the "public generally" exception (regulation 18707.1) cannot be applied since there is no showing that their economic interests will be affected in a manner that is similar to the effect on the public generally. The specialized form of the "public generally" exception (regulation 18707.9) does apply to one official's economic interest in residential rental property.

Brien J. Farrell
City of Santa Rosa
Dated: July 11, 2003
File Number I-03-121

A member of the city's design review board was given informal assistance on whether she may, in her private capacity as a land use consultant, represent clients before other city agencies and communicate with city staff. The official was advised that she may represent clients before other city agencies as long as she does not purport to be acting in her official capacity. The official was further advised that an agency includes its staff or city staff assigned to or shared by that agency. Since the design review board shares staff with another city agency, the official was advised that she may not communicate with any shared staff that is assigned to a project that is or will be before the design review board. Any such communication would be an appearance or contact with the official's own agency for the purpose of influencing a governmental decision.

Ron Brandley
City of Sierra Madre
Dated: July 15, 2003
File Number I-03-127

A public official who is a business owner of a floral shop and also sits on the city planning commission may not vote on a matter that affects the signs of that floral shop.

Lisa A. Foster
City of San Diego
Dated: July 31, 2003
File Number I-03-128

When a public official attends an event that has no admission price, which is held for a purpose other than entertaining or meeting with officials, the valuation of the event is based on the official's pro rata share of the total cost of the event. The official should make a good faith determination of the value of the gift received when disclosing gifts, regardless of when the information is obtained.

Jonathan B. Stone
City of Vista
Dated: July 24, 2003
File Number A-03-131

A city employee was advised that since neither her income from her former employer, nor the stock she had divested, were economic interests, she could participate in a profit sharing negotiation between the city and her former employer.

Karin D. Troedsson
Town of Yountville
Dated: July 16, 2003
File Number A-03-134

A public official who resides in a semi-private room at the Veterans Home of California in Yountville does not have "an interest in real property" in the home or its grounds.

Sheryl L. Bratton
Sonoma County
Dated: July 17, 2003
File Number A-03-138

Where development projects are not contingent upon one another, they may nevertheless be too interrelated to be considered separately. In such cases, a public official's conflict of interest in one situation will disqualify him or her from participating in other decisions.

Julia M. Lew
City of Porterville
Dated: July 17, 2003
File Number A-03-139

Participation in a governmental decision is not

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legally required where there exists an alternative source of decision consistent with the purposes and terms of the statute authorizing the decision.

Prentice Deadrick
Center for Community & Family Services, Inc.

Dated: July 21, 2003

File Number I-03-143

A public official who is employed by a nonprofit organization was given informal assistance wherein he was told that he could vote on matters that would have a material financial effect upon a business owned by one of his employer's board members. Since management of the nonprofit organization, including hiring and decisions regarding compensation, are made by a majority vote of the board, it was inappropriate to "pierce" through the organizational structure; the individual board member and his wholly-owned business are not economic interests to the public official.

Gregory V. Moser
Del Mar Thoroughbred Club

Dated: July 23, 2003

File Number A-03-147

The existence of a conflict of interest is premised, in part, on the making and participating in making or influencing of a *governmental* decision. Thus, a board member of an agency will not have a conflict of interest prohibiting him from influencing a decision before a private entity, the Del Mar Thoroughbred Club, on behalf of his employer. However, the director will have a conflict of interest in *any* governmental decision that will have a reasonably foreseeable material financial effect on his employer.

Edwin S. Beckenbach
No. San Juan Fire Protection District

Dated: July 21, 2003

File Number A-03-152

There is no conflict of interest under the Act when a wife works for a local governmental agency at the same time her spouse serves on the board of the agency.

Robert Westmeyer

County of Napa

Dated: June 3, 2003

File Number I-03-003

The concerns of a public official regarding participation generally as a county supervisor and her possible conflicts of interest were addressed in a prior advice letter, *Dillon* Advice Letter No. I-02-082. This follow-up letter applies the "public generally" exception to a referendum decision possibly revoking the adoption of a stream setback ordinance. Despite being asked to assume a conflict of interest exists to apply the "public generally" exception, not enough information was provided to determine if the criteria of the significant segment component of the "public generally" exception were met, or whether or not they would be affected in substantially the same manner.

Mario Biagi, Supervisor
Amador County Board of Supervisors

Dated: June 10, 2003

File Number I-03-010

A county supervisor who was also a wine grape grower did not have a disqualifying conflict of interest with respect to his business in relation to a decision regarding a proposed change to the county's winery ordinance that would allow on-site fresh food service in winery tasting room areas. This was because the income to or expenses of his business were affected more by external factors such as the cost of labor and over-production of grapes than the proposed change to the winery ordinance. However, the official was advised that he may have a disqualifying conflict of interest if the proposed change would have a reasonably foreseeable material financial effect on the winery with which he contracted to sell his grapes.

Jennifer K. McCain

City of Escondido

Dated: June 4, 2003

File Number I-03-021

A council member is presumed to have a conflict of interest in a decision to change the boundaries of a downtown business district, where the council member leases property in the district.

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Brian M. Libow
City of San Pablo
Dated: June 4, 2003
File Number A-03-052

The "public generally" exception is applied to the conflict-of-interest rules in the context of a city council decision regarding a school and recreational facility project. The officials own property within 500 feet of the project sites.

Terence R. Boga
City of Seal Beach
Dated: June 4, 2003
File Number A-03-067

A city engineer and a city manager are each presumed to have a conflict of interest in decisions pertaining to a proposed development located within 500 feet of each official's real property. The officials are prohibited from participating in these decisions unless this presumption is rebutted or if an exception to the conflict of interest rules applies. The "significant segment" prong of the "public generally" analysis is specifically addressed. (Further discussion of the "public generally" analysis as it applies to the facts surrounding these decisions is included in a follow-up letter, *Boga Advice Letter No. A-03-067a.*)

Bart J. Thiltgen
City of Bakersfield
Dated: June 11, 2003
File Number I-03-070

A general discussion of the potential conflict-of-interest issues facing a member of a city council who is contemplating outside business relationships that would result in some city employees becoming sources of income to the official.

Richard E. Nosky
City of Salinas
Dated: June 18, 2003
File Number I-03-073

A city council member who is employed by a union to organize unrepresented workers was advised that he had a conflict of interest disqualifying him from participating in city council decisions concerning renewal or renegotiation of collective bargaining agreements between his union employer and employees of the city. He may also be

disqualified from participating in city council decisions to eliminate vacant city positions or concerning employee discipline/grievances, depending upon whether the decisions will have a reasonably foreseeable material financial effect upon his union employer. The advice concludes with a general description of the segmentation process, as it pertains to city council decisions.

Jonady Hom Sun
Public Utilities Commission
Dated: June 9, 2003
File Number A-03-079

The application of the "former employer" exception was found not to apply in this instance since the person in question was an independent contractor and not an employee. Also, it was determined that every "otherwise related business entity" would constitute an economic interest if even one met the \$500 source of income threshold, even though the amount received from each separate entity is not combined to attain this threshold amount for purposes of disqualification.

Mark R. Alexander
City of La Cañada-Flintridge
Dated: June 25, 2003
File Number A-03-081

Two members of a parks and recreation commission are prohibited from making, participating in making or influencing any governmental decisions that will reasonably and foreseeably have a material financial effect on any of their economic interests, including any decision that will have a material financial effect on their personal finances. Because the parks and recreation commission is a decision-making body, the commissioners' positions need to be "designated" within the city's conflict of interest code. The "legally required participation" exception may apply in cases where there is no alternative source of decision-making authority and the parks and recreation commission would be paralyzed without the participation of a disqualified commissioner. However, the exception does not apply when the disqualified official's vote is merely needed to break a tie or when a quorum can be convened of other members who are not disqualified.

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Roy A. Hanley
City of Atascadero
Dated: June 4, 2003
File Number A-03-103

Where a council member owns property that is subject of a zoning decision, the effect of the decision is presumed not to be material, so long as: 1) the decision solely concerns the amendment of an existing zoning ordinance or other land use regulation (such as changes in the uses permitted, or development standards applicable, within a particular zoning category) which is applicable to all other properties designated in that category, and 2) there are no specific circumstances regarding the governmental decision, its financial effect, and the nature of the real property in which the public official has an economic interest, which make it reasonably foreseeable that the decision will have a material financial effect on the real property in which the public official has an interest.

Darren Bogié
County of San Benito
Dated: June 4, 2003
File Number A-03-105

The public official was advised that his adult child was not a member of the official's "immediate family" within the meaning of the Act, even though residing in the official's household. Section 82029 defines "immediate family" to exclude a child that is 18 years of age or older, even if a dependent for purposes of federal income tax. Thus, any financial effects of a governmental decision upon an adult child are not considered to be an effect upon the official or his immediate family, for purposes of identifying the existence of a conflict of interest.

The Honorable Deborah V. Ortiz
California Legislature
Dated: June 13, 2003
File Number G-03-106

General discussion of the applicability of the Act's conflict-of-interest provisions to advisory scientific review panels constituted to advise state agencies on matters regarding safe levels of contaminants in the environment.

Richard Rudnansky
City of Petaluma
Dated: June 6, 2003
File Number A-03-113

A council member with no outstanding campaign debts does not have a financial interest in decisions to amend the city's campaign finance ordinance.

Rick Cook
City of Santa Paula
Dated: June 11, 2003
File Number A-03-114

There is a presumption that a conflict of interest exists where the public official votes on a matter concerning a real estate development within 500 feet of that official's property.

Ralph L. Clark
Amador County Fair
Dated: June 12, 2003
File Number A-03-118

A public official does not have a conflict of interest if he or she is not making, participating in making or otherwise influencing a governmental decision. This is the case where the public official's duties are solely ministerial, secretarial, manual or clerical in nature.

Joanne Stonecipher
Bonita-Sunnyside Fire Protection District
Dated: June 20, 2003
File Number I-03-120

A public official may have a conflict of interest where he or she is both a local board member and an employee of an agency that contracts for services with that board.

Jack A. Sieglock
San Joaquin County Board of Supervisors
Dated: June 24, 2003
File Number I-03-125

A county supervisor employed by a home health care provider was advised that sources of income to his employer are not potentially disqualifying sources of income to him, since he does not have an ownership interest of 10% or greater in his employer. Thus, the supervisor may participate in votes concerning two hospitals that are sources of income to his employer, unless the decisions

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will have a reasonably foreseeable material financial effect on his employer. The county supervisor was also advised of new regulation 18702.5 that describes the procedures certain public officials, including county supervisors, must follow if they have a conflict of interest disqualifying them from participating in a decision.

Conflict of Interest Code

Stephen Shane Stark
County of Santa Barbara
Dated: June 6, 2003
File Number: A-03-015

Under the detailed facts presented, Santa Barbara's community media access center does not meet the criteria set forth in the *Siegel* opinion and is not considered a local government agency under section 82041 of the Act.

Harry A. Krug
Air Quality Standards
Dated: June 30, 2003
File Number: G-03-133

A general discussion is contained in this letter on the petition rights of a designated employee under section 87307. Employees subject to a conflict of interest code may petition their agency to amend the code. If the agency declines or fails to act within 90 days, the employee may appeal to the code reviewing body within 30 days.

Gift Limits

Vanessa G. Rose
Teale Data Center
Dated: August 1, 2003
File Number A-03-151

Items donated as prizes for a charitable golf tournament do not confer any personal benefit on the designated employee collecting the items. Therefore, these items are not considered gifts to the designated employee. As long as the charitable golf tournament is open to staff, other state employees and members of the public, and raffle tickets may be purchased by all persons attend-

ing the event, it appears that the raffle would be a "bona fide competition." If so, the raffle prizes are not considered gifts, but income.

Helene Leichter
City of Morgan Hill
Dated: June 16, 2003
File Number A-03-064

Travel payments made to a council member from the Pew Charitable Trust but which were directed and controlled by Rutgers University are reportable as gifts from Rutgers but not subject to the gift limit provided they are governed by section 89506(b).

Honoraria

The Honorable Janet Kinter
San Diego Superior Court
Dated: June 3, 2003
File Number I-03-101

The Act does not prohibit a superior court judge from teaching a class in Canada. The stipend paid to the judge would be reportable. However, the provisions of the Act which limit honoraria and gifts do not apply to judges (although the provisions in the Code of Civil Procedure do set forth gift and honoraria rules for judges). Whether the travel and accommodations to the event are reportable as "gifts" or "income" depends on the specific facts of the event.

Lobbying

Allen Erenbaum
Office of the Governor
Dated: August 12, 2003
File Number A-03-124

A lobbying firm that contacts the Governor's office on behalf of its client for the purpose of encouraging the Governor to enter into a gaming compact with a federally recognized Indian tribe, or for encouraging the Governor to provide his concurrence for taking certain land into trust for gaming purposes on behalf of a federally recognized Indian tribe, would be engaging in a quasi-legislative proceeding under Government Code §

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82002. This would constitute lobbying and would require the filing of a lobbying firm activity authorization form by the firm.

Mass Mailing

Neal Andrews
City of San Buenaventura
Dated: June 17, 2003
File Number A-03-100

The mass mailing provisions of the Act do not apply to a city council member listing his name and official title on a plaque of donors to be posted on a donor wall. There is not an "item sent" pursuant to regulation 18901(a)(1).

Revolving Door

James F. Bush
Department of Education
Dated: August 21, 2003
File Number A-03-129

This advice goes to two formerly designated employees of a state agency. Both the permanent and one-year bans are applicable to them. Under the permanent ban, neither can represent any new employer before any court or state administrative agency, nor any officer, nor employee thereof, in any judicial, quasi-judicial or other proceeding that they participated in as a state employee. Additionally, the one-year ban prohibits them from representing any new employer before their former state agency for the purposes of influencing administrative, legislative, or other specified action for one year.

Loy Holder
Health & Human Services Data Center
Dated: August 6, 2003
File Number A-03-168

A retired senior information systems analyst formerly serving at the Health and Human Services Data Center sought advice as to whether the post-employment provisions of the Act would prohibit her from accepting an assignment by a new private employer/contractor, to perform work at the Health and Human Services Data Center

similar to that she performed while in state service. Since the work will be performed to implement the terms of an "existing contract," this is an exception to the one-year ban on communicating with or appearing before her former agency employer. The permanent ban does not apply since she was not involved as a state employee during the performance of this new contract.

Penny Nakatsu
San Francisco Redevelopment Agency
Dated: July 11, 2003
File Number A-03-109

The revolving doors provisions of the Act do not apply to local officials. Therefore, a former member of a project area committee is not subject to the revolving doors provisions of the Act.

Kathy Lanz-Haupt
Franchise Tax Board
Dated: July 24, 2003
File Number A-03-149

A former state administrative agency official was advised that the one year ban does not prohibit her, as a private consultant, from accepting an assignment to her former state administrative agency employer in order to implement an existing contract. Since she did not work on the implementation phase of this contract while a state employee, but only on the design and requirements pre-contracting phase, the permanent ban does not apply to her involvement, as a private consultant, in the implementation phase of the contract which is a separate proceeding.

Laurin H. Mills
Superintendent of Public Instruction
Dated: June 2, 2003
File Number A-03-071

A former Superintendent of Public Instruction was advised that because under section 87406(c), she was only precluded from contacting or appearing before "state administrative agencies," the one-year ban under the Act's post-employment provisions did not preclude her from contacting local California school districts about joining the organization with which she was now affiliated. Local California school districts are not state agencies, but are, rather, local agencies, and the revolving

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Lobbyist Ethics Course Scheduled; Lobbyists Reminded Not to Miss Course Deadline

The legislative ethics committees have announced the scheduling of a lobbyist ethics course to be conducted in Sacramento on March 5, 2004, from 1:30 to 3:30 p.m. The location is to be announced.

Know Your Deadline!

Any lobbyist who has not completed the ethics course requirement for the 2003-2004 legislative session remains "conditionally registered" with a specified deadline to complete the ethics requirements. **If your ethics deadline occurs before mid-November 2004, you must take the March 5, 2004, course to prevent revocation of your "conditional registration."**

At the deadline, any lobbyist who has not completed the ethics course and filed the required amendment to Form 604 certifying an ethics completion date, must cease lobbying activity immediately, is prohibited from acting as a lobbyist in California until the course and filing requirements are met, and may be subject to criminal penalties and substantial fines.

THERE IS NO PROVISION FOR A WAIVER OF A LOBBYIST'S ETHICS COURSE REQUIREMENT OR FOR EXTENSION OF A LOBBYIST'S DEADLINE TO FILE THE REQUIRED AMENDED FPPC FORM 604, CERTIFYING THE ETHICS COURSE COMPLETION DATE.

Contact the Senate Committee on Legislative Ethics (Jeanie Myers) at (916) 324-6929, to obtain a sign-up form for the March 5th course or to verify your ethics date.

If you have completed the course but are unsure whether you remembered to "certify" for the current legislative session by filing the required amendment to your Form 604, you can look on the Secretary of State's web site:

<http://www.ss.ca.gov>

At the web site, go to the directory of individual lobbyists. Review your picture page for 2003-2004. If no ethics course date is shown on your (the lobbyist's) picture page, then you must file an amended Form 604 certifying the date that you completed the ethics course.

...Advice summaries

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door restrictions of section 87406(c) are not applicable.

Kathryn E. Donovan
California Educational Facilities Authority
Dated: June 17, 2003
File Number I-03-119

For purposes of analysis under the Act's post-employment restrictions on former state officials, this letter assumes that the official had participated in certain proceedings as a government official, and offers guidance in determining when a subsequent proceeding becomes a "new" proceeding no longer within the scope of the Act's permanent ban. (§§ 87401-87402.)

Statement of Economic Interests

Richard Cromwell
SunLine Transit Agency
Dated: August 14, 2003
File Number I-03-162

Certain travel payments made by a private sector organization for a public official to attend the organization's meetings must be reported on the official's statement of economic interests. The payments for travel may be considered "income," and not a "gift" for reporting purposes, if the official benefiting has provided equal or greater consideration to the person making the payments.